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APPLICATION NO.	FI	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/777,285	1	02/11/2004	Gerald B. Eaton	84100B	5460
31248	7590	02/22/2005		EXAMINER	
ANTHONY			RABAGO, ROBERTO		
600 TRAVIS		11 L.D.1 .	ART UNIT	PAPER NUMBER	
SUITE 4200	1		1713		
HOUSTON,	TX 770	002	DATE MAILED: 02/22/2005		

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
<b></b>	10/777,285	EATON ET AL.					
Office Action Summary	Examiner	Art Unit					
	Roberto Rábago	1713					
The MAILING DATE of this communication appeared for Reply	ppears on the cover sheet with the c	orrespondence address					
A SHORTENED STATUTORY PERIOD FOR REP THE MAILING DATE OF THIS COMMUNICATION  - Extensions of time may be available under the provisions of 37 CFR of after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a release of the second of the seco	I.  1.136(a). In no event, however, may a reply be tin  eply within the statutory minimum of thirty (30) day  d will apply and will expire SIX (6) MONTHS from  ute. cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).					
Status							
1) Responsive to communication(s) filed on	<del>.</del>						
2a) This action is FINAL. 2b) ⊠ Th	nis action is non-final.						
3) Since this application is in condition for allow closed in accordance with the practice under	•						
Disposition of Claims							
4) ☐ Claim(s) 1-20 is/are pending in the application 4a) Of the above claim(s) is/are withden 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1-20 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and	rawn from consideration.						
Application Papers							
9)☐ The specification is objected to by the Exami	ner.						
10)☐ The drawing(s) filed on is/are: a)☐ a	☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
Applicant may not request that any objection to the		·					
Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the	•						
Priority under 35 U.S.C. § 119	,						
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:  1. Certified copies of the priority docume 2. Certified copies of the priority docume 3. Copies of the certified copies of the priority application from the International Bure * See the attached detailed Office action for a lie	ents have been received. ents have been received in Applicat riority documents have been receive eau (PCT Rule 17.2(a)).	ion No ed in this National Stage					
Attachment(s)							
<ol> <li>Notice of References Cited (PTO-892)</li> <li>Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>Information Disclosure Statement(s) (PTO-1449 or PTO/SB/O Paper No(s)/Mail Date</li> </ol>	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal F 6) Other:						

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Art Unit: 1713

## **DETAILED ACTION**

## **Double Patenting**

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,730,750. Although the conflicting claims are not identical, they are not patentably distinct from each other because substantially the same scope of processes is being claimed. Specifically, the patented claims are identical to the copending claims except that the patented claims include the limitation that the polyolefin is "ultrahigh molecular weight" which is not included in the instant claims. However, if the patented claims were prior art, they would clearly anticipate the instant claims, and therefore the instant claims are not separately patentable over those already patented.

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Roberto Rábago Primary Examiner Art Unit 1713

RR February 17, 2005